

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CONTROL LASER CORPORATION,
Plaintiff,
v.
WILLIAM FREDERICK SMITH,
Defendant.

Case No. 21-cv-01869-JST

**ORDER DENYING REQUEST TO
MODIFY STIPULATION**

Re: ECF No. 54

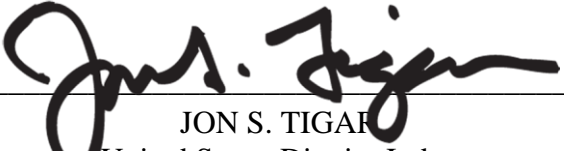
Now before the Court is the parties' joint discovery letter brief. ECF No. 54. Among the issues in dispute is Defendant's request that the Court modify the terms of a prior case management order, which stated, among other things, "The parties stipulate to infringement and agree that claim construction will not be necessary." ECF No. 38 at 2. Defendant requests that the Court modify this language, although he does not propose substitute language. He also states that he wishes not to limit his defense of the action to "the non-defined word, 'permission,' as Defendant's sole defense," but would like instead "to clarify the scope of [his] defense to reflect the facts that were discovered during the Discovery phase of this litigation." *Id.* at 4.

A stipulation is "[a] voluntary agreement between opposing parties concerning some relevant point; esp., an agreement relating to a proceeding, made by attorneys representing adverse parties to the proceeding." Stipulation, Black's Law Dictionary (11th ed. 2019). "A stipulation relating to a pending judicial proceeding, made by a party to the proceeding or the party's attorney, is binding without consideration." *Id.* Defendant identifies no authority by which the Court could modify the parties' stipulation, nor does he identify the language the Court would employ to accomplish that modification. Finally, as to Defendant's second request, the Court's order does not limit Defendant's defenses in any way or even use the word "permission."

1 Defendant's request to modify the Court's prior case management order is denied. The
2 Court will take up the balance of the parties' discovery letter brief at the June 14, 2022 case
3 management conference.

4 **IT IS SO ORDERED.**

5 Dated: June 13, 2022


JON S. TIGARD
United States District Judge